



## Consumer Federation of America

February 6, 2003

Honorable Michael K. Powell  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., 8<sup>th</sup> Floor  
Washington, D.C. 20554

**Re: Ex Parte Presentation, CC Docket NO. 01-338, 96-98, 98-147, *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability***

Dr. Mark Cooper, Research Director of the Consumer Federation of America met with Daniel Gonzalez and Jordan Goldstein by telephone to discuss a granular, market-based approach to the determination of when unbundled network elements are necessary and when their withdrawal would impair competition. Dr. Cooper points out that a “forced march to facilities-based competition” is inconsistent with the Act and contrary to the granular approach demanded by the Court.

Granularity must be based on product and geographic markets and demands state involvement, since the Commission does not have the resources or institutional background to conduct the market-by-market, product-by-product analysis that should apply to all UNEs.

The test for “necessary” and “impair” should be market-based. Markets must be defined properly for each UNE and each product. Customer classes are a useful product definition. Transition issues are important because competition could be undermined by an unrealistically short transition.

The issue of hot cuts should be resolved by preserving UNE-P ordering. As soon as a customer is cutover, the account shifts from UNE-P to (e.g.) UNE-L.

Sincerely

Mark Cooper